

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6665

BILL NUMBER: HB 1163

NOTE PREPARED: Feb 2, 2010

BILL AMENDED: Jan 25, 2010

SUBJECT: Expungement of Records of Certain Convictions.

FIRST AUTHOR: Rep. Tincher

FIRST SPONSOR: Sen. Steele

BILL STATUS: As Passed House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. It provides that if postconviction DNA testing is favorable to a convicted person and if the court orders the release of the person after December 31, 2007, the records and other information of the sentencing court, a juvenile court, a court of appeals, and the Supreme Court concerning the person's offense shall be permanently sealed and the court that ordered the release shall do the following concerning records and information that are related to the offense: (1) Order any entity that incarcerated, provided treatment for, or provided other services for the person to destroy all records they possess concerning the person's incarceration, treatment, or services. (2) Order any central repository for criminal history information to not place or retain any information concerning the person's arrest for or conviction of the offense in the central repository. (3) Seal any records the court possesses concerning the offense and any proceeding related to the offense. (4) Allow certain persons to gain access to records that were sealed if the persons show good cause for the unsealing of the records.
- B. It specifies that if a court orders that the records of the person who was released be sealed, the person: (1) may obtain a copy of the court order; (2) shall be treated for all purposes as if the person had not been arrested for or convicted of the offense; and (3) may legally state on an application for employment or any other document that the person has not been arrested for or convicted of the offense.

Effective Date: (Amended) Upon passage.

Explanation of State Expenditures: (Revised) The Indiana State Police (ISP) maintains the criminal history data base. Any additional staff and computer time required would likely be within their existing level of

resources. The Indiana State Police report the following information on criminal history records that have access to limited criminal history.

| Criminal History Files Maintained by the Indiana State Police | | |
|---|-----------|---------|
| Not Limited | 2,150,999 | 99.995% |
| Limited Access for Noncriminal Justice Agencies | 107 | 0.005% |
| Total Files | 2,151,106 | |

ISP staff also report that they currently receive between one and three requests each month to limit access for noncriminal justice agencies.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) The bill could minimally increase costs for the court to order various agencies to expunge records of a conviction or that concern the released person, to seal records, and to make notifications to the clerk of the Supreme Court. Also, agency costs to remove and destroy records would minimally increase. [Since December 31, 2007, one person has been released through postconviction DNA testing in Indiana.]

Law enforcement agencies and the prosecuting attorney in the county would still have access to any evidence that was collected in the crime.

Explanation of Local Revenues:

State Agencies Affected: State agencies maintaining criminal records.

Local Agencies Affected: Trial courts; local jails.

Information Sources: The Innocence Project.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.